

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, *in his official
capacity as President of the United
States*, et al.,

Defendants.

17-CV-5228 (NGG) (JO)

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs respectfully advise the Court of a Federal Vacancies Reform Act ("FVRA") order issued this past Friday in *Bullock v. U.S. Bureau of Land Management*, No. 4:20-cv-00062-BMM (D. Mont. Sept. 25, 2020) (Ex. 1). In *Bullock*, the United States District Court for the District of Montana granted summary judgment for the plaintiffs on their claim that William Perry Pendley has been unlawfully serving as the Acting Director of the Bureau of Land Management ("BLM") for over 400 days in violation of the FVRA and Administrative Procedure Act ("APA"). Slip op. 29-30, 34. In addition to granting declaratory relief, the court enjoined Pendley from exercising the authority of the BLM director. *Id.* at 34. The court further found that any "function or duty" of the BLM Director that Pendley performed "would have no force and effect" under the plain terms of the FVRA and must also be "set aside as arbitrary and capricious" under the APA, and ordered further briefing on what particular acts of Pendley "should be set aside" under the two statutes. *Id.*

DATED: September 28, 2020

Respectfully submitted,

LETITIA JAMES

Attorney General of the State of New York

Anisha S. Dasgupta

Deputy Solicitor General

Joshua M. Parker

Assistant Solicitor General

Of Counsel

By: /s/ Matthew Colangelo

Matthew Colangelo

Chief Counsel for Federal Initiatives

Sania Khan, *Assistant Attorney General*

Joseph Wardenski, *Senior Trial Counsel*

Office of the New York State Attorney General

28 Liberty Street

New York, NY 10005

Phone: (212) 416-6057

Matthew.Colangelo@ag.ny.gov

Attorneys for the Plaintiffs